

§ 12.10

38 CFR Ch. I (7-1-12 Edition)

charges collect and the carrier will accept such shipment without liability for such charges, contingent or otherwise, upon the Government.

(d) If the designate refuses or, upon the lapse of 90 days, has failed to take possession or request shipment of decedent's property (paragraph (a) of this section), or if 90 days have elapsed after the finding of any property and the owner (known or unknown) has failed to request same, the manager or his or her designated representative will authorize destruction, use or sale.

(e) If sale of the property is authorized the manager will take necessary action to ascertain the names and addresses, of the owners; or, in the event of the owner's decease, of his or her executor or administrator, widow, child, grandchild, mother, father, grandmother, grandfather, brother, or sister.

(f) When in possession of the necessary information the manager will cause proper notice of sale (Form 4-1171) to be mailed. Such notice in all cases shall disclose the identity, if known, of the decedent whose property is to be sold and contain a copy of the inventory of such property. A copy of such notice (Form 4-1171), after parts I, IV, and V thereof are completed, shall be mailed to the owner, if known, or if deceased to the decedent's executor or administrator, if known, and also to the widow (or widower), child, grandchild, mother, father, grandmother, grandfather, brother and sister, if known. If more than one relative of the degree named is known, copy will be mailed to each. If the owner is living, parts IV and V only of Form 4-1171 will be completed.

(g) Copy of such notice (Form 4-1171, parts IV and V) will also be posted by a responsible employee more than 21 years of age at:

(1) The field facility where the death occurred or property shall have been found,

(2) The place where property is situated at the time such notice is posted, and

(3) The place where probate notices are posted in the county wherein the sale is to be had.

(h) In addition to showing the name of the owner, if known (alive or deceased), and the inventory of the prop-

erty to be sold, such notice shall state the hour and day when and the precise place where the sale will occur and that the same will be at public auction for cash upon delivery without warranty, express or implied, and that such sale is pursuant to the act of June 25, 1938 (38 U.S.C. 16-16j); and shall also state that any person legally entitled to said property may claim the same at any time prior to sale thereof and in the event of such claim by a proper person the property will not be sold but will be delivered to the person lawfully entitled thereto. Said notice shall also contain a statement substantially to the effect that if sold the net proceeds of sale may be claimed by the person who is legally entitled at any time within 5 years after the date of notice; or in case of property the ownership of which was not originally known, within 5 years after its finding; otherwise such proceeds will be retained in the General Post Fund, subject to disbursement for the purposes of such fund.

(i) The person (or persons) posting said notice of sale (Form 4-1171) shall make appropriate affidavit on a copy thereof as to his or her action in that respect and the manager or his or her designated representative will also certify on the same copy as to the persons to whom copies of such notice were mailed and the mailing dates. The copy on which appear the affidavit and certificate as to service of the notice will be retained in the facility file pertaining to the disposition of such property.

[13 FR 7129, Nov. 27, 1948, as amended at 15 FR 663, Feb. 7, 1950; 23 FR 5, Jan. 1, 1958]

§ 12.10 Proceeds of sale.

After proper notice as prescribed, sale of any such property which it is proper to sell, will be made by public auction by the manager (or any employee designated by him or her) at the time and place stated in the notice of sale. The property will be sold to the highest bidder (no employee except member employees of the Department of Veterans Affairs shall purchase any of this property) and forthwith delivered and the amount of the bid collected and deposited to the credit of "General Post Fund, Department of Veterans Affairs." Care will be taken

Department of Veterans Affairs

§ 12.16

to segregate the property of each owner and separate account will be maintained as to the proceeds of sale thereof. Property not disposed of by public auction will be included in the next sale or will be used or destroyed as the value thereof warrants at the discretion of the manager.

[13 FR 7130, Nov. 27, 1948]

§ 12.12 Miscellaneous provisions.

If it is shown that some person other than the veteran has title to property in a veteran's possession at the time of death, nothing contained in §§12.0 to 12.12 shall be construed as prohibiting delivery of such property to the owner. A life insurance policy may be delivered to the beneficiary therein named if the insured is deceased, notwithstanding the veteran has designated a person to whom possession of his or her property at the field facility is to be transferred. In no case will funds or effects be delivered to a minor, or to an incompetent person other than as provided in §12.9 (a) and (c), but where any such person is entitled to title or possession delivery may be made to his or her guardian.

[13 FR 7130, Nov. 27, 1948]

§ 12.13 Posting of notice of the provisions of Pub. L. No. 734, 75th Congress (38 U.S.C. 16-16j).

In order that all persons who bring property on premises of the Department of Veterans Affairs may be advised of the existence of the act of June 25, 1938 (38 U.S.C. 16-16j), and that it affects such property, notice thereof (Form 4-1182), shall be permanently posted in at least one prominent place on the premises of each field facility where persons are likely to see such notice.

[13 FR 7130, Nov. 27, 1948]

DISPOSITION OF PERSONAL FUNDS AND EFFECTS LEFT UPON PREMISES OF THE DEPARTMENT OF VETERANS AFFAIRS BY NON-VETERAN PATIENTS, EMPLOYEES AND OTHER PERSONS, KNOWN OR UNKNOWN

§ 12.15 Inventory of property.

Immediately upon the death at a Department of Veterans Affairs field fa-

cility of a person who was not admitted as a veteran, or immediately after it is ascertained that any such person has absented himself or herself from such field facility, a survey and inventory of the personal funds and effects of such deceased or absent person will be made in the manner prescribed in §12.3(a).

[13 FR 7130, Nov. 27, 1948]

§ 12.16 Action on inventory and funds.

(a) The manager will dispose of the personal funds and effects as promptly as possible. No expense will be incurred by the Government for shipment of the effects.

(b) In making disposition of funds and effects the manager will release the funds to the owner if living and will release the effects to him or her or as directed by him or her, provided that if he or she is incompetent and has a guardian the funds and effects will be released to such guardian. If the owner is deceased, and left a last will and testament probated under the laws of the place of his or her last legal domicile or under the laws of the State, territory, insular possession, or dependency, within which the field facility may be, the personal property of such decedent situated upon such premises will be released to the executor. If such person left on said premises funds or effects not disposed of by a will probated in accordance with the provisions of this paragraph, such property shall be released to the administrator, if one has been appointed.

(c) In those cases where there is neither an administrator nor an executor the funds and effects will be released to the person entitled to inherit the personal property of the decedent under the intestacy laws of the State where the decedent was last domiciled.

(d) Where disposition of the funds and effects cannot be accomplished under the provisions of paragraphs (b) and (c) of this section, the funds, at the expiration of 90 days will be deposited to the General Post Fund and the effects will be disposed of in accordance with the provisions of §§12.8, 12.9, and 12.10.

[13 FR 7131, Nov. 27, 1948, as amended at 14 FR 4726, July 28, 1949]